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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,789	05/04/2005	Dwipendra Nath Guha	050501MNL	2259

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EXAMINER

CHIU, RALEIGH W

ART UNIT

PAPER NUMBER

3711

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/533,789

Applicant(s)

GUHA, DWIPENDRA NATH

Examiner

Raleigh Chiu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10,15 and 17 is/are rejected.
- 7) ☒ Claim(s) 8,11-14 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/05/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in India on 05 November 2002. It is noted, however, that applicant has not filed a certified copy of the 621/CAL/02 application as required by 35 U.S.C. 119(b). A certified copy of the priority document has not been received in this National Stage application from the International Bureau.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-4, 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 4,494,753 (Wampler) in view of U.S. Patent Number 3,787,054 (Stafford).

Regarding claims 1-3, 6 and 15, Figures 1-2 of Wampler show a plastic cubic body containing a plurality of intersection pathways of varying lengths for an object. Although Wampler does not show a non-transparent body, it would have been obvious to do so in view of Stafford who teaches that transparent, partially transparent and non-transparent mazes are all well-

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known in the art and it would have been obvious to one of ordinary skill in the art to use a particular embodiment for a specific difficulty of the game.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Further, while it is acknowledged that Wampler provides a transparent maze body to provide a visual aid, Stafford teaches the concept of introducing opaqueness to at least some parts of the body to change the difficulty of the maze game. Applicant is reminded that the test for obviousness is not whether the features may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

Regarding claim 4, as the complexity of the maze game is determined by the number of blind pathways, it would have been within the level of ordinary skill, by routine experimentation to provide the Wampler maze as modified above to provide a

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certain number of blind pathways in order to obtain a specific level of difficulty for the game.

4. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wampler and Stafford as applied above in view of U.S. Patent Number 2,509,340 (Fly)..

Regarding claim 5, it would have been obvious to one of ordinary skill in the art to construct the Wampler maze game as modified above with moldable pathways in view of Fly who teaches that such maze constructions are old and well-known in the art. To select features from the prior art to effect results expected from these features is within the purview of 35 USC 103.

Regarding claim 7, Figure 1 of Wampler shows entrance and exit apertures on opposites sides.

5. Claims 9, 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wampler and Stafford as applied above in view of U.S. Patent Number 4,008,895 (Reiner et al., hereinafter Reiner).

Regarding claim 9, Reiner teaches the concept of multiple exit apertures. See the bridging paragraph between columns 6-7. It would have been obvious to one of ordinary skill in the art to provide multiple exit apertures on the Wampler maze game as modified above in view of Reiner in order to allow a user more possibilities and opportunities to finish the game.

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Regarding claims 10 and 17, it would have been an obvious matter of design choice to place the exit apertures at various locations about the cubic body, since applicant has not disclosed that having these specific locations solves any stated problem or is for any particular purpose and it appears that the maze game would perform equally well with the apertures at any location.

Response to Arguments

6. Applicant's arguments filed 05 December 2006 have been fully considered but they are not persuasive for the reasons set forth above.

No specific arguments have been presented with respect to claims 5, 7, 9 and 10.

Allowable Subject Matter

7. Claims 8 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Double Patenting

8. Claim 16 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 12. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

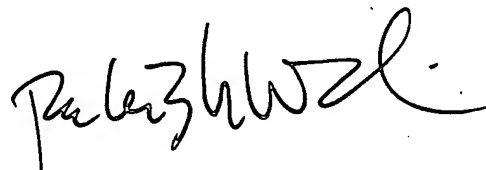
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim, can be reached on (571) 272-4463.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raleigh W. Chiu
Primary Examiner
Technology Center 3700

RWC:dei:feif

1 February 2007